

REMARKS

Claims 1-11 and 14-43 are pending. Applicants have amended claims 1 and 29. Support for the amendments is found, for example, from paragraph 1, page 11 to paragraph 3 page 12 of the specification. No new matter is introduced by this Amendment. Accordingly, reconsideration of the application is respectfully requested.

The Examiner has rejected claims 1, 2, 4, 5, 7-9, 14, 15, 29-33, 38, 39 and 41-43 under 35 U.S.C. §102(e) as allegedly anticipated by U.S. Patent No. 6,726,923 to Lyer, et al. (hereafter “Lyer”). The rejection is respectfully traversed.

To maintain a 35 U.S.C. §102(e) rejection, a single reference must teach each and every element of a claim. Lyer fails to do so.

Claim 1, as amended, recites a device for creating an anastomosis between first and second blood vessels. The device comprises, inter alia, an extravascular body, a first securing means and a second securing means. The extravascular body comprises an outer surface and an inner surface. The outer surface forms the outer profile of the body and the inner surface forms an opening configured to contact a portion of the first vessel received therein. The first securing means, i.e. adhesive, secures at least an end of the first vessel to the opening. The second securing means secures a portion of the second vessel to a corresponding portion of the outer surface of the extravascular body such that a hole formed in the portion of the second vessel is in fluid communication with the first vessel.

Applicants’ independent claim 29 recites a method for creating an anastomosis between first and second blood vessels. The method comprises, inter alia, adhesively attaching a

portion of the first vessel to an extravascular body. The extravascular body comprises an opening therethrough. The opening is configured to receive and contact the portion of the first vessel. The extravascular body further comprises an outer surface, which forms the outer profile of the body and at least a portion of which is configured to contact a portion of the second vessel. The method further comprises attaching the portion of the second vessel to the corresponding portion of the outer surface of the body, and creating an anastomosis between the first and second vessels through the opening in the body.

Thus, claims 1 and 29 both recite an outer surface forming the outer profile of the body, and a second securing means which secures a portion of the second vessel to a corresponding portion of the outer surface of the body such that a hole formed in the portion of the second vessel is in fluid communication with the first vessel.

Turning to the prior art, Lyer discloses a prosthetic device adapted for extravascular drug delivery. Specifically, Lyer discloses a prosthetic device externally wrapped or placed around both an arterial structure and a venous structure, as shown in Figs. 7 and 8. The vessels are inserted into two corresponding inner holes formed perpendicularly in the device. Thus, neither of the vessels is secured to the outer surface of the device, which forms the outer profile of the device.

In contrast, the present invention, as recited in claims 1 and 29, discloses a second securing means which secures a portion of the second vessel to a corresponding portion of the outer surface forming the outer profile of the body. Thus, Lyer fails to disclose the second securing means, as recited by claims 1 and 29.

Since Lyer does not disclose each and every element of the claims 1 and 29, from which all the other claims depend, the rejection of claims 1, 2, 4, 5, 7-9, 14, 15, 29-33, 38, 39 and 41-43 under 35 U.S.C. §102(e) based on Lyer is overcome and withdrawal thereof is respectfully requested.

The Examiner has rejected claims 6 and 40 under 35 U.S.C. §103(a) as allegedly unpatentable over Lyer in view of U.S. Patent Publication No. 2002/0065545 to Leonhardt, et al.(hereafter “Leonhardt”). The rejection is respectfully traversed.

Applicants’ independent claims 1 and 29 are discussed above, from which claims 6 and 40 respectively depend.

Lyer is discussed above. Leonhardt discloses a graft, deployable percutaneously by low-profile deployment means and capable of providing a leak-proof conduit through the disease region without suturing or stapling. Leonhardt is relied on to teach a balloon catheter for urging inner members towards outer members. However, Leonhardt does not teach or suggest either a first securing means for adhesively securing at least an end of the first vessel to the opening or a second securing means for securing a portion of the second vessel to a corresponding portion of the outer surface of the body such that a hole formed in the portion of the second vessel is in fluid communication with the end of the first vessel. Thus, Leonhardt fails to overcome the underlying deficiencies of Lyer. Therefore, neither Lyer or Leonhardt, taken alone or in combination, disclose the combination of features recited in the Applicants’ independent claims. Nor is there any motivation or reasoning in any of the references to combine such features into the references. Accordingly, the rejection of claims 6 and 40 under

35 U.S.C. §103(a) based on the combination of Lyer and Leonhardt is overcome and withdrawal thereof is respectfully requested.

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,



Frank S. DiGilio
Registration No. 31,346

Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza, Suite 300
Garden City, New York 11530
(516) 742-4343
FSD/HC:bk:me